

Harpswell Planning Board Meeting
Minutes of May 15, 2002 **page 1 of three**

Attendance: James Henderson-Chairman, John Papacosma-Vice-Chairman, Sam Alexander, Dorothy D. Carrier, Robert White-Associate, Tony Dater-Planner, Karen O'Connell-Recording Secretary.

The meeting had been advertised in the Times Record and was videotaped, and broadcast live on Harpswell TV. The audio tape recorder did not operate. Chairman Henderson called the meeting to order at 6:30 P.M., introduced above members and staff and appointed Robert White as official voting Associate member for this meeting. Henderson led the pledge of allegiance.

Minutes - The minutes of April 17 Meeting were reviewed and approved with a correction. - (Motion by Carrier and Henderson seconded - Carried 5-0) Minutes of the April 30 Site Visit were not reviewed at this time .

New Business - Henderson explained a new numbering system to be used for items on the agenda. The numbers indicate year (02), month of Planning Board meeting (4), and the final number indicates item order under new business.

02-4-3 Lucille Hershenhart, represented by John Martel, Approval of Land Use in Shoreland Zone to relocate foundation , Shoreland Residential, Tax Map 52-133, 17 Laurel Shore Road, Cundy's Harbor (Deferred from previous meeting) Mr. John Martel representing Ms. Hershenhart described the proposal to add a foundation under a house and indicated he had been informed by Jeremy Hatch of the need to abide by Shoreland Ordinance 10.3 which relates to meeting setbacks to the greatest practical extent. The plan is to move the foundation to the South so that it will meet two side and road frontage setbacks and also move 3 to 4 feet back from the Spring high water mark. The house is presently 53 feet from the Spring High Water mark on the lot with the rear of the house at the 75 foot setback line and 10 or 12 feet back from the North property line. A high voltage power line on the lot presents a difficulty in that it requires a 10 foot safety zone. The foundation can be moved 3 or 4 feet to meet the 10 foot buffer line. Martel explained that if they worked to move the utility pole, it is true they would gain 2 or 3 feet from setback but the movement of the pole is not practical due to it requiring the extensive cutting of trees for the new line.

Dater asked if the new foundation would be out of the 100 year flood plain. Martel indicated that an updated map by FEMA shows that the house is completely out of the flood plain and indicated the dotted line on the map which designated flood line. Dater asked that Martel send a copy of the FEMA Map amendment which Mr. Martel was referencing to the Codes Office to be included in the application. Henderson indicated that other issues for the Board to consider might include size of lot, slope of the land, location of structures, septic system and vegetation removal. Board members raised no other issues and Papacosma summed up saying the plan to move the foundation produces a positive end result improving setbacks. Henderson proposed and **White moved that the Lucille Hershenhart proposal of March 15, 2002 regarding property on tax Map 52-133 meets the requirements of Shoreland Ordinance 10.3.2.1 by meeting the setbacks to the greatest practical extent possible and Board approves the proposal with a condition that the FEMA Map amendment be included in the application to Codes Office.** (Motion by White and seconded by Alexander - Carried 5-0)

Henderson explained that the Board was reconsidering the next two items on the agenda this evening. The Board had concluded after a work shop session with Town staff and the Town Attorney, that based on a review of the ordinances and legal advice, they had previously come to an erroneous conclusion and had not correctly interpreted the ordinances as applied to the setbacks on structures in these two cases which involved linear increases in square footage.

02-4-2 Laurie Haggerty and Eleanor French, Reconsideration of the Decision Regarding Reconstruction of Non-Conforming Structure, Shoreland Residential, Tax Map 15-143, 51 Basin Point Rd.

After a period of discussion, **Henderson moved that the Board reconsider the Haggerty French matter. (Henderson moved and Carrier seconded - Carried 5-0)** -Applicant Eleanor French reviewed her request which was denied at the April 17 Planning Board meeting. French explained that the shed to be reconstructed is currently 2 feet from the road right of way and about 15 feet from the paved traveled portion of the road. Her entire lot is approximately 50 feet wide and sidelines are 110 and 168 feet. French indicated she could move the shed back approximately 10 feet but then begins to run into slope and the septic system area on her property. Dater clarified that the required setbacks for the shed would be 20 feet from lot lines and 40 feet from the road traveled way. Alexander asked about location of leach field and French stated she believes it is approximately 50 feet back from the line. Papacosma clarified with French that the traveled way of the road was about 15 to 17 feet from the shed's current location. Henderson indicated that the slope of the land is not clear from the application and asked about the need to clarify this. French responded that moving the shed any further back than the 10 feet was not feasible as it would result in putting the building up on stilts to cope with the slope. Dater noted that the applicant plans on a 30% expansion and wondered if the Board would want to do a site visit to view the slope.. Papacosma suggested that the applicant's plan is to make the shed less non conforming and asked if application could be approved with a stipulation that the Codes Office would assist with the best placement on the slope. French indicated she might need to withdraw her application if it was to become any more complicated. After a brief discussion regarding the practicality of utilizing the slope and the fact that the plan is an improvement over current situation (2 feet from road right of way), the Board decided to bring the matter to a vote. Carrier made a **Motion to approve the Haggerty/French application of January 30, 2002 regarding property on Tax map 15, lot 143 and request to move the shed back at least 12 feet from the property lot line facing Basin Cove Road with the condition that there would be no increased incursion on side property lines. (Motion by Carrier and seconded by Papacosma- Carried 5-0). The above motion was revoted following above noted process motion to reconsider the matter. (Motion by Henderson and Carrier seconded- Carried 5-0)**

02-4-4 Helene K. Chase, represented by James Hoare, Reconsideration of the Decision Regarding Reconstruction of Non-Conforming Structure, Shoreland Residential, Tax Map 18-78, 1832 Harpswell Neck Road -

Henderson made a motion to reconsider the Chase application denied at the April 17 meeting. (Motion by Henderson and seconded by Carrier - Carried 5-0) Applicant representative Mr. Hoare very briefly reviewed the proposal as presented at April 17 Planning Board meeting and pointed out the difficulty in moving the building on the lot because of the narrowing of the lot towards the road. The lot coverage issue was discussed and Mr. Hoare indicated he is improving overall coverage from 27% to 26% as a result of the shortening of the driveway. Board members discussed that non conformity is improved by removal of shed and bulkhead. The issue of stairs intruding on rear setback was discussed. Hoare indicated he had attorney's advice regarding a citizens note on ordinance 10.3.1 which seems to indicate that a simple set of stairs do not impact setbacks as they cannot be used to justify future increases in the footprint of a building structure. Hoare indicated he had the footprint of the current bulkhead even closer to a property line and could place stairs there. Alexander indicated he believes the stairs are a non issue (essentially invisible in the footprint as long as they are no more than four feet wide). Hoare confirmed the stairs in the plan are less than four foot wide and extend out four feet and are a straight set of stairs with no platform. Papacosma indicated he disagreed and believed using the inverse of the citizens note was a stretch and did not make sense and that stairs did not allow extending into setbacks. He suggested the stairs be placed within the current footprint within an alcove. Hoare indicated that was not practical and indicated he could place the stairs on the bulkhead footprint. Henderson indicated that swaps are not permitted. Dater checked again whether house could be moved forward and Hoare indicated the lot narrowing caused increased incursion on setbacks. White raised the issue of impact on neighbor Eves. Hoare reviewed plan for septic retaining wall and Papacosma asked about including a French drain system. Alexander indicated that if the septic was approved, this was not the Board's domain. In further discussion of stairs, Dater reviewed the definition of structure which did not include stairs unless a deck or landing was included, and Alexander Carrier and Henderson agreed that stairs are a non issue in

violating greatest practical extent. Papacosma disagreed as he sees the stairs as an incursion into setbacks. Before voting, Henderson referred to a letter dated May 8, 2002 , on file from Attorney Kurt E. Klebe writing for abutter MacArthur to: 1. revoke an oral license regarding storage of construction equipment on her adjacent property and 2. to place a condition on the licence given regarding sump pump overflow. White then made a **motion regarding the Chase application for property on Tax Map 18, Lot 78 to approve the 3-27-02 plan submitted to reduce the nonconformity of the building to the greatest possible extent per requirements of 10.3.1.1 . (Motion by White seconded by Alexander - Carried 4-1 with Papacosma in disagreement.)** Henderson indicated that a Notice of Decision would be prepared that incorporates a copy of the May 15 Minutes which will be approved at the June 19th meeting.

Notice Of Abandonment of Amended Planning Board Approval submitted by Jeffrey and Peter Darling

- Henderson reported that the Board had received a formal request from the Darling's to abandon the February 20,2002 amended Panning Board Approval (related to plan for parking spaces on a Standard Boundary Survey). Henderson reviewed the original copy of the Darling's request for abandonment dated May 2, 2002 and received by the Town on May 3, 2002. Henderson then read text of the certificate for abandonment to the Board noting the text was prepared by the Town Attorney. The Board discussed that if the approval is abandoned the result is there will be no plan for parking and that one of the issues is that if all proposed spaces were used, there would be no room for turnarounds. Alexander indicated that one of the options is to eliminate all the moorings and file another plan. Jeff Darling indicated that the road ownership issue needed to be settled. Darling also indicated that once the abandonment is approved, the original plan remains in full force at the registry of deeds; as there is a distinction between the original plan and the amended plan to be abandoned. Henderson continued with a reading of an e-mail from Town Attorney Sally Daggett regarding the forms , the Planning Board Order and the recording of certificate of abandonment at the registry of deeds. Henderson recommended a **motion reading text of the Planning Board Order - Be it ORDERED that the chairman be and hereby is authorized and directed to execute the attached Certificate of Abandonment relating to the amended Darling Marina Planning Board approval for property located at 9 Field Road (said amended plan was approved by the Planning Board on February 20, 2002) and to cause the same to be recorded in the Cumberland County Registry of Deeds. (Motion by Carrier and seconded by Alexander - Carried 5-0).** Henderson noted he would sign the Certificate of Abandonment in the presence of a Notary Public before the close of business on Thursday.

Minimum Requirements For Applications Considered by Planning Board - the Board discussed the need to have applicants prepare more complete applications for presentation to the Board in order to reduce the burden on the Board . Applicants will be given a list of items needed for a complete application and the applicant will be held accountable to fully prepare . The board will be upholding the 21 day lead time pre-submission requirement. Board members indicated it would be important to include contour lines as part of applications and there was discussion about expense that would involve. The Board also agreed photographs are important for reconstruction applicants. Henderson indicated he prefers applicants prepare complete applications to avoid need for site visits. The Board considered having a planner determine if there is a need for a Board site visit and considered possibility of setting a standard site visit time; perhaps the P.M. of the Board meeting day.

Planning Work shop in Saco -September 11 - Board members discussed possible attendance at a planning Workshop September 11 and agreed to finalize plans for attendance at the June meeting.

Future Agenda Items- Henderson indicated several agenda items for the June Meeting:

1. By Laws change regarding 100 days limit from first appearance on agenda
2. Planning Board Workshop in Saco
3. Minimum Requirements For Applications To Board

The meeting was adjourned at 8:35 P.M.

Respectfully Submitted,

Karen O'Connell, Recording Secretary